

REMARKS

Reconsideration and allowance of the subject application are respectfully requested.

Claims 7-26 are pending in the application. Basis for new claims 25 and 26 can be found in the originally filed application including at pending claims 7 and 12. Basis for the outer layer recited in claims 25 and 26 can be found at page 3, lines 4-12 of the present specification. Basis for the curved edge part recited in new claim 25 can be found at page 6, lines 4-7 of the present specification and pending claim 15. Basis for the ribbon recited in claim 26 can be found at page 6, lines 9-24 of the present specification. No claims have been amended to overcome prior art or to narrow the claim breadth. No new matter has been added. The full doctrine of equivalents applies to each claim element.

The rejection of claims 7-9, 12, 13, 15, 16, 18-20, 22, and 23 under 35 U.S.C. § 103(a) as being unpatentable over US2002/0162307A1 (Arnold) in view of US2002/0041949A1 (Nishibori) is respectfully traversed. The claimed invention is not taught or suggested by the theoretical combination of Arnold and Nishibori for the following reasons.

One of ordinary skill in the art would not be motivated to combine Arnold with Nishibori to arrive at a numnah having a polyurethane base layer. Arnold teaches a numnah having a foam base layer and a scrim layer. Nishibori teaches a resin molded article for use as a cushion for seats and beds. Nishibori teaches against using polyurethane in seats because it is too flexible and has other problems. See paragraphs 8-11 of Nishibori. Thus, one of ordinary skill in the art would not be motivated to combine the polyurethane foam of Nishibori with the numnah of Arnold. For this reason alone, the Section 103 rejection should be withdrawn.

Even if Arnold and Nishibori were combined, the combination would not teach or suggest the claimed invention for the following reasons. The claimed invention recites a numnah having a base layer comprising a polyurethane foam and at least 50% recycle polyurethane foam bound to a second layer. The base layer has an Asker type

C hardness in the range of 10 to 35 and a water absorption capacity of at least 300% of its own weight. The claimed base layer can absorb sweat from a horse in an amount up to 300% of its own weight.

In contrast, Arnold teaches that absorption of sweat into the base layer is to be avoided because it causes problems with changing the resilience and reducing the padding of the base layer. See paragraph 5 of Arnold. See also paragraph 6 of Arnold, which teaches that an objective of his invention is to “maintain good resilience during use,” i.e. avoidance of sweat absorption. One of ordinary skill in the art reading and comprehending Arnold would follow this teaching to avoid sweat absorption in the base layer. In other words, Arnold teaches that the claimed polyurethane foam is not “suitable” for use in a numnah. Thus, reliance on *In re Leschin*, 125 USPQ 416 is unfounded because the polyurethane foam is not suitable for the intended use. For this reason alone, the Section 103 rejection should be withdrawn.

Nishibori does not supply the deficiencies of Arnold. Nishibori is silent on the issue of sweat absorption into the base layer. Thus, the combination of Nishibori and Arnold teaches to avoid sweat absorption into the base layer, which is opposite to the claimed invention.

Furthermore, Nishibori teaches to avoid using polyurethane foam. See paragraphs 8-11 of Nishibori, which teach the many problems of using polyurethane foam as a seat cushion, such as being too flexible, difficult to clean and recycle, and heat storage problems. Nishibori at paragraph 16 teaches that “[t]he invention has been made as a solution to the above problems ... for being used in place of polyurethane foam which is difficult to recycle and suffers from the problems described hereinabove.”

One of ordinary skill in the art would follow this strong negative teaching in Nishibori and not use polyurethane foam in a seat cushion.

Thus, the combination of Arnold and Nishibori teaches to avoid using polyurethane foam in the base layer and to avoid using a base layer that absorbs sweat. In contrast, the claimed invention teaches the opposite, to use polyurethane foam and to select a polyurethane foam that can absorb at least 300% of its weight in sweat. Furthermore, the claimed absorption of at least 300% cannot be considered an “optimum or workable range,” according to *In re Aller*, 105 USPQ 233, since the

reference teaches 0% absorption. One cannot optimize 0% to be 300%. For this reason alone, the Section 103 rejection should be withdrawn.

The claimed invention also requires at least 50% recycled polyurethane foam in the base layer. Nishibori teaches in paragraphs 9, 15, and 99 that polyurethane foams are difficult to recycle. Arnold is silent on the issue of recycled polyurethane foam. Thus, the combination of Nishibori and Arnold cannot possibly teach to use at least 50% recycled polyurethane foam in the base layer. Furthermore, the claimed at least 50% recycled polyurethane foam cannot be considered an "optimum or workable range," according to *In re Aller*, 105 USPQ 233, since the reference teaches 0% recycled polyurethane foam. One cannot optimize 0% to be 50%. For this reason alone, the Section 103 rejection should be withdrawn.

Even if the combination of references taught to use a polyurethane foam base layer in a numnah, and they do not for the above reasons, there is no teaching to use a polyurethane foam that can absorb at least 300% of its weight in sweat. See page 4, lines 31-36 of the present specification, which teaches that a conventional polyurethane foam tested only was capable of absorbing 64% of its weight in sweat. Thus, merely teaching to use polyurethane foam does not satisfy the claim limitation of absorbing at least 300% its weight in sweat. For this reason alone, the Section 103 rejection should be withdrawn.

The combination of references also does not teach or suggest selecting a polyurethane foam having an Asker type C hardness in the range of 10 to 35. One cannot optimize what is not taught by the references. In order for there to be optimization, a range to be optimized must first be taught. For this reason alone, the Section 103 rejection should be withdrawn.

In regards to claims 12 and 13, the cited references do not teach the claimed air permeability range of 150-300 l/m²sec. One cannot optimize what is not taught by the references. In order for there to be optimization, a range to be optimized must first be taught. For this reason alone, the Section 103 rejection should be withdrawn.

In regards to claim 15, 16 and 18, Arnold does not teach or suggest providing a curved edge. Fig. 3 of Arnold shows the shape of the numnah from the top, where any curve in the edge cannot be seen. See Fig. 4 of Arnold, which clearly shows a flat

edge. See Fig. 3 of the present invention, which clearly shows a curved edge 6, and compare that curved edge with the flat edge shown in Fig. 4 of Arnold. Nishibori also does not teach or suggest a curved edge. Accordingly, withdrawal of the Section 103 rejection is respectfully requested.

In regards to claims 19, 20, 22 and 23, as discussed above, the combination of Arnold and Nishibori clearly teach to avoid using a polyurethane foam, and especially a polyurethane foam having a high water absorbency. Thus, according to the cited references, the Poliyou polyurethane foams are not "suitable" for the intended use in a numnah and reliance upon In re Leshin, 125 USPQ 416 is unfounded. Accordingly, withdrawal of the Section 103 rejection is respectfully requested.

In view of the lack of motivation to combine the cited references, and the many differences between the claimed invention and the combination of cited references, withdrawal of the Section 103 rejection is respectfully requested.

The rejection of claims 7-9, 12, 13, 15, 16, 18-20, and 22-24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,695,495 (Lee) in view of Nishibori is respectfully traversed. The claimed invention is not taught or suggested by the theoretical combination of Lee and Nishibori for the following reasons.

One of ordinary skill in the art would not be motivated to combine Lee with Nishibori to arrive at a numnah having a polyurethane foam base layer. Lee teaches a saddle pad having a foam base layer, a membrane layer, and a layer of hydrophilic fibers. Nishibori teaches a resin molded article for use as a cushion for seats and beds. Nishibori teaches against using polyurethane foam in seats because it is too flexible and has other problems. See paragraphs 8-11 of Nishibori. Thus, one of ordinary skill in the art would not be motivated to combine the polyurethane foam of Nishibori with the saddle pad of Lee. For this reason alone, the Section 103 rejection should be withdrawn.

Even if Lee and Nishibori were combined, the combination would not teach or suggest the claimed invention for the following reasons. The claimed invention recites a numnah having a base layer comprising a polyurethane foam and at least 50% recycle polyurethane foam bound to a second layer. The base layer has an Asker type C hardness in the range of 10 to 35 and a water absorption capacity of at least 300% of

its own weight.

In contrast, Lee teaches to use a polyethylene base layer bound to a membrane layer and a layer of hydrophilic fibers. Lee teaches that the hydrophilic fibers wick the sweat away from the horse and once water droplets form in the polyethylene base layer, the sweat cannot travel back towards the horse from the base layer. See column 4, lines 19-34 and column 5, lines 26-34 of Lee. Lee does not teach using the claimed polyurethane foam material.

Nishibori does not supply the deficiencies of Lee. Nishibori teaches to avoid using polyurethane foam. See paragraphs 8-11 of Nishibori, which teach the many problems of using polyurethane foam as a seat cushion, such as being too flexible, difficult to clean and recycle, and heat storage problems. Nishibori at paragraph 16 teaches that “[t]he invention has been made as a solution to the above problems ... for being used in place of polyurethane foam which is difficult to recycle and suffers from the problems described hereinabove.” One of ordinary skill in the art would follow this strong negative teaching in Nishibori and not use polyurethane foam in a seat cushion. In other words, Nishibori teaches that the claimed polyurethane foam is not “suitable” for use in a numnah. Thus, reliance on *In re Leschin*, 125 USPQ 416 is unfounded because the polyurethane foam is not suitable for the intended use. For this reason alone, the Section 103 rejection should be withdrawn.

Thus, the combination of Lee and Nishibori teaches to avoid using polyurethane foam in the base layer. In contrast, the claimed invention teaches the opposite, to use polyurethane foam and to select a polyurethane foam that can absorb at least 300% of its weight in sweat. For this reason alone, the Section 103 rejection should be withdrawn.

The claimed invention also requires at least 50% recycled polyurethane foam in the base layer. Nishibori teaches in paragraphs 9, 15, and 99 that polyurethane foams are difficult to recycle. Lee is silent on the issue of recycled polyurethane foam. Thus, the combination of Nishibori and Lee cannot possibly teach to use at least 50% recycled polyurethane foam in the base layer. Furthermore, the claimed at least 50% recycled polyurethane foam cannot be considered an “optimum or workable range,” according to *In re Aller*, 105 USPQ 233, since the reference teaches 0% recycled

polyurethane foam. One cannot optimize 0% to be 50%. For this reason alone, the Section 103 rejection should be withdrawn.

Even if the combination of references taught to use a polyurethane foam base layer in a numnah, and they do not for the above reasons, there is no teaching to use a polyurethane foam that can absorb at least 300% of its weight in sweat. See page 4, lines 31-36 of the present specification, which teaches that a conventional polyurethane foam tested only was capable of absorbing 64% of its weight in sweat. Thus, merely teaching to use polyurethane foam does not satisfy the claim limitation of absorbing at least 300% its weight in sweat. For this reason alone, the Section 103 rejection should be withdrawn.

The combination of references also does not teach or suggest selecting a polyurethane foam having an Asker type C hardness in the range of 10 to 35. One cannot optimize what is not taught by the references. In order for there to be optimization, a range to be optimized must first be taught. For this reason alone, the Section 103 rejection should be withdrawn.

In regards to claims 12 and 13, the cited references do not teach the claimed air permeability range of 150-300 l/m²sec. One cannot optimize what is not taught by the references. In order for there to be optimization, a range to be optimized must first be taught. For this reason alone, the Section 103 rejection should be withdrawn.

In regards to claim 15, 16 and 18, Lee does not teach or suggest providing a curved edge. Fig. 1 of Lee clearly shows a flat edge. See Fig. 3 of the present invention, which clearly shows a curved edge 6, and compare that curved edge with the flat edge shown in Fig. 1 of Lee. Nishibori also does not teach or suggest a curved edge. Accordingly, withdrawal of the Section 103 rejection is respectfully requested.

In regards to claims 19, 20, 22 and 23, as discussed above, the combination of Lee and Nishibori clearly teach to avoid using a polyurethane foam, and especially a polyurethane foam having a high water absorbency. Thus, according to the cited references, the Poliyou polyurethane foams are not "suitable" for the intended use in a numnah and reliance upon In re Leshin, 125 USPQ 416 is unfounded. Accordingly, withdrawal of the Section 103 rejection is respectfully requested.

In view of the lack of motivation to combine the cited references, and the many

differences between the claimed invention and the combination of cited references, withdrawal of the Section 103 rejection is respectfully requested.

The rejection of claims 10, 11, 14, 17 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Arnold as modified by Nishibori as applied to claim 7 above, and further in view of U.S. Patent No. 5,104,910 (Turner) is respectfully traversed. The claimed invention is not taught or suggested by the theoretical combination of Arnold, Nishibori and Turner for the following reasons.

The claimed invention is not taught or suggested by the combination of Arnold and Nishibori for the reasons provided above. Turner does not supply the deficiencies of Arnold and Nishibori.

In regards to claims 10 and 11, Turner merely teaches that "the catalyst is supported on a carrier such as activated carbon." See column 5, lines 43-44. Using activated carbon as a catalyst carrier is very different from adding sufficient activated carbon to reduce smells. Once the activated carbon is combined with a catalyst, it is no longer activated carbon, but rather a catalyst. There is no certainty that the activated carbon bound to the catalyst will work as activated carbon and reduce smells. Thus, Turner cannot possibly teach or suggest adding activated carbon to the base layer to reduce smells. Accordingly, withdrawal of the Section 103 rejection is respectfully requested.

In regards to claim 14, the cited references do not teach the claimed air permeability range of 150-300 l/m²sec. One cannot optimize what is not taught by the references. In order for there to be optimization, a range to be optimized must first be taught. For this reason alone, the Section 103 rejection should be withdrawn.

In regards to claim 17, Arnold does not teach or suggest providing a curved edge. Fig. 3 of Arnold shows the shape of the numnah from the top, where any curve in the edge cannot be seen. See Fig. 4, which clearly shows a flat edge. See Fig. 3 of the present invention, which clearly shows a curved edge 6, and compare that curved edge with the flat edge shown in Fig. 4 of Arnold. Nishibori also does not teach or suggest a curved edge. Accordingly, withdrawal of the Section 103 rejection is respectfully requested.

In regards to claim 21, as discussed above, the combination of Arnold and

Nishibori clearly teach to avoid using a polyurethane foam, and especially a polyurethane foam having a high water absorbency. Thus, according to the cited references, the Poliyou polyurethane foams are not "suitable" for the intended use in a numnah and reliance upon *In re Leshin*, 125 USPQ 416 is unfounded. Accordingly, withdrawal of the Section 103 rejection is respectfully requested.

The rejection of claims 10, 11, 14, 17 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Lee as modified by Nishibori as applied to claim 7 above, and further in view of Turner is respectfully traversed. The claimed invention is not taught or suggested by the theoretical combination of Lee, Nishibori and Turner for the following reasons.

The claimed invention is not taught or suggested by the combination of Lee and Nishibori for the reasons provided above. Turner does not supply the deficiencies of Lee and Nishibori.

In regards to claims 10 and 11, Turner merely teaches that "the catalyst is supported on a carrier such as activated carbon." See column 5, lines 43-44. Using activated carbon as a catalyst carrier is very different from adding sufficient activated carbon to reduce smells. Once the activated carbon is combined with a catalyst, it is no longer activated carbon, but rather a catalyst. There is no certainty that the activated carbon bound to the catalyst will work as activated carbon and reduce smells. Thus, Turner cannot possibly teach or suggest adding activated carbon to the base layer to reduce smells. Accordingly, withdrawal of the Section 103 rejection is respectfully requested.

In regards to claim 14, the cited references do not teach the claimed air permeability range of 150-300 l/m²sec. One cannot optimize what is not taught by the references. In order for there to be optimization, a range to be optimized must first be taught. For this reason alone, the Section 103 rejection should be withdrawn.

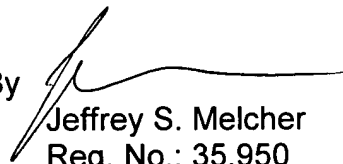
In regards to claim 17, Lee does not teach or suggest providing a curved edge. Fig. 1 of Lee clearly shows a flat edge. See Fig. 3 of the present invention, which clearly shows a curved edge 6, and compare that curved edge with the flat edge shown in Fig. 1 of Lee. Nishibori also does not teach or suggest a curved edge. Accordingly, withdrawal of the Section 103 rejection is respectfully requested.

In regards to claim 21, as discussed above, the combination of Lee and Nishibori clearly teach to avoid using a polyurethane foam, and especially a polyurethane foam having a high water absorbency. Thus, according to the cited references, the Poliyou polyurethane foams are not "suitable" for the intended use in a numnah and reliance upon In re Leshin, 125 USPQ 416 is unfounded. Accordingly, withdrawal of the Section 103 rejection is respectfully requested.

In view of all of the rejections of record having been addressed, it is believed that the present application is in condition for allowance and Notice to that effect is respectfully requested.

Respectfully submitted,
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